

Federal Defenders  
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March 29, 2025

By E-Mail and ECF

Honorable Nina R. Morrison  
U.S. District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *United States v. Johnston*, 23 Cr. 13 (NRM)

Dear Judge Morrison,

We write in response to the government's letter of March 28, 2025 (ECF No. 221) asking that the Court issue a ruling on its motion to admit certain of Doe's March 18, 2021 messages with Jane Doe #3. The defense previously opposed the admission of these messages because it was our understanding that Jane Doe #3 had not been identified or interviewed, raising Confrontation Clause issues. *See* Def. Opp. to Gov't Mot. in Lim., at 7-9 (ECF No. 136). This was our belief throughout the briefing process.

When we received the 3500 material, however, we learned that Jane Doe #3 had in fact been located and interviewed. Accordingly, as we indicated to the government earlier this week, we no longer object to the admission of these messages (and, indeed, seek the admission of additional messages between Jane Doe and Jane Doe #3 under the Rule of Completeness, *see, e.g.*, DX D-19). In addition, once the government informed us of Jane Doe #3's medical appointment and related issues as well as the general nature of Jane Doe #3's testimony, we offered to stipulate to the admissibility of the messages between Jane Doe and Jane Doe #3, so that Jane Doe #3 would not have to be called to testify at trial. To be clear, as we informed the government, we also do not object to Jane Doe testifying that she told Jane Doe #3 in a (subsequently-deleted) message that her father raped her.

Respectfully Submitted,

/s/

Marissa Sherman  
Deirdre D. von Dornum

CC: Counsel of Record